IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

OP.No. 28578 of 2000(B)

PETITIONER:

N.K.RAJAPPAN, NELLITHANATHU,
MOONILAVU.P.O., KOTTAYAM.

BY ADV. SRI.M.G.KARTHIKEYAN

RESPONDENTS:
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1. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
KOTTAYAM.

2. THE DEPUTY TAHSILDAR (RR), MEENACHIL, KOTTAYAM DISTRICT.

3. HARIDAS, PALLAVOOR HOUSE, CHITTUR ROAD, PALAKKAD.

4. M.N.RAVINDRAN, MUKALLIL HOUSE, EDAVANNA, EDAMATTOM.P.O.,
POVARANY.

BY ADV. SRI.K.K.BABU
ADV. SHRI.A.K.JOHN, SC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO. 28578/2000

ORDER ON CMP NO. 48148/2000 IN OP NO. 28578/2000

DISMISSED.

23/11/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE AUCTION NOTICE DATED 07/06/1999 ISSUED to the 4TH RESPONDENT.

P2 : COPY OF THE NOTICE DATED 07/09/2000 ISSUED BY THE 2ND RESPONDENT.

P3 : COPY OF THE CHALAN RECEIPT EVIDENCING THE PAYMENT OF RS.16,170/- DATED 08/12/1997.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 28578 of 2000

Dated, this the 23rd day of November, 2007

J U D G M E N T

This original petition is filed challenging recovery proceedings for recovery of Toddy Workers' Welfare Fund contribution demanded in respect of toddy shop No. 191 of the Erattupetta Excise Range for the year 1997-98. Petitioner's case is that petitioner was only a manager of the shop, though he conducted the business, on behalf of licensee, who is 4th respondent. Even though petitioner stated that petitioner was not served with any notice or order, it is seen from the counter affidavit that petitioner did not respond to any of the notices for the assessment including pre-assessment notice served on the petitioner. Apart from serving notices, final determination order was served on the petitioner through messenger on 27/06/2000. However, petitioner has not produced a copy of the final determination order or filed appeal against the same. It is admitted that petitioner was the manager of the toddy shop. As he was responsible for the conduct of the toddy shop, it was for him to recover the contributions from the employees' salary and remit the same along with the share of contributions from the employer. Besides the advance amount

paid, no amount was paid by the petitioner. I do not think the contention of the petitioner is tenable because liability under Section 2(c) of the Toddy Workers Welfare Fund Act 1969 is on the employer including the petitioner, as he had actually carried on business by employing toddy workers, though license was not in his name. Therefore, the recovery initiated against the petitioner and the licensee is perfectly in order. This original petition is, therefore, devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg